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SUBJECT: RWANDA TO CRITICS OF ITS JUDICIAL REFORM - "GIVE  
US A BREAK"

REF: A. KIGALI 369  
[1](#)B. KIGALI 325  
[1](#)C. KIGALI 203

Classified By: Ambassador Michael Arietti for Reason 1.4 (b) (d)

[1](#)1. (C) Summary: The Rwandan Ministry of Justice, with financial support from the World Bank and Belgian Technical Cooperation, hosted a conference June 16-18 on the state of the Rwandan judicial system since the 2003 implementation of reforms. During the conference, officials from the Government of Rwanda (GOR) as well as members of prominent human rights NGOs including Human Rights Watch (HRW) and advisors from the U.S. judiciary described important post-2003 accomplishments of the Rwandan justice sector, as well as the many challenges that remain. The GOR responded positively to an HRW presentation on universal jurisdiction and reaffirmed its general support of the principle, while invoking opposition to its "abuse." Harsh reactions by some GOR officials to a presentation by HRW's Alison Des Forges, including the suggestion that she was a "spokesperson for genocide ideology," however, demonstrated a continuing unwillingness by some GOR officials to accept criticism of its judicial system from sources it does not believe are fair and balanced. End summary.

[1](#)2. (SBU) During the June 16-18 "International Conference on the Impact of Judicial Reforms for the Justice Sector in Rwanda," several GOR officials including Minister of Justice Tharcisse Karugarama, Vice Chief Justice of the Supreme Court Sam Rugege, Prosecutor General Martin Ngoga, National Gacaca Service head Domitilla Mukantaganzwa, and National Unity and Reconciliation Commission Executive Secretary Fatuma Ndagiza and other presenters from NGOs and international bodies made presentations on progress in the justice sector and problems that remain. Prominent American jurists, who were key advisors during the restructuring of the Rwandan judiciary and the rewriting of the Rwandan judicial code, including Judges Paul Magnison and Vicki Miles-LaGrange, played important roles during the conference. Among the positive accomplishments cited were the restructuring of the court system to increase its efficiency and speed, a substantial reduction in the case backlog, the recent establishment of commercial courts, and introduction of several pieces of commercial legislation to improve the business environment and increase investor confidence in Rwanda. Rwandan commentators also claimed success in adapting the "traditional" Rwandan system of village-level adjudication of disputes for the "gacaca" trials of genocide suspects. As previously reported (ref C), the Gacaca Service had rendered judgment in 1,509,298 or 94 percent of a total of 1,127,706 cases by the end of the year. and is making preparations to

hear cases previously left to the classic court system. (Note: A Gacaca Service officer told us during the conference that only "two percent" of gacaca cases now remained to be tried by gacaca courts). The release of tens of thousand of genocide prisoners in 2007, and their participation in community service ("TIG") activities has relieved prison overcrowding and accomplished important public works, such as "radical" terracing of steep hillside farmland. Reconciliation and reintegration of those convicted has also been furthered, said several commentators.

13. (SBU) Other panelists outlined several challenges still facing the Rwandan judicial sector. One speaker pointed to a lack of a formal coordinating structure for legal reform. Another described the case backlog, though much reduced since the introduction of reforms, as a continuing strain on the court system. According to another official, funding constraints made the training of judges and prosecutors in the classical court system difficult and the provision of legal aid, guaranteed in the constitution, a practical impossibility. Continuing harassment of and violence against genocide survivors and gacaca witnesses were further examples of obstacles the GOR judicial system needed to overcome.

14. (SBU) An HRW researcher based in London presented the commonly accepted legal basis for universal jurisdiction, the prosecution of crimes not connected to the prosecuting state, calling it a "complement to sovereignty" and a "last resort for victims." She pointed out that the GOR benefited from the principle through prosecution of genocidaires by several nations that had no connection to the 1994 genocide. She also acknowledged that controversies had arisen from its

application in a number of cases over the years. Regarding GOR dissatisfaction with French and Spanish indictments of senior Rwandan officials (ref A), she explained that the principle did not apply in the former case (the officials were indicted for the deaths of French citizens), and was combined with Spanish domestic law in the latter (as some allegations in the sweeping Spanish indictments concerned the death of Spanish citizens). She also noted that international bodies such as the International Criminal Court practiced a variety of universal jurisdiction unattached to any national courts.

15. (SBU) African Rights head Rakiyah Omar further discussed universal jurisdiction and called for more African nations to integrate the principle into their legislative frameworks. Minister of Justice Karugarama reaffirmed GOR support for the principle, but noted that problems arose in its "imperfect application" and condemned its abuse and use for "political ends." Expressing frustration over the "judicial stalemate" caused by the indictments, he labeled them "trash," and said the indicted Rwandans were "victims whose rights are curtailed" by the practical travel restrictions they faced. Karugarama called for a regulatory mechanism to prevent abuse of universal jurisdiction and to provide a body for review and appeal of cases, a sentiment codified in the final recommendations of the conference.

16. (SBU) Long-time HRW researcher Alison Des Forges presented an analysis of the state of the Rwandan judicial system, beginning her discussion with an acknowledgment of the specific difficulties posed to it by the 1994 genocide and the gains it had achieved since that time, including the abolition of the death penalty and the establishment of a right to counsel. In her more critical comments, Des Forges focused on legislation, judicial independence, and equal access to justice in Rwanda. She cited vague terminology in a draft law on "genocide ideology" as problematic for prosecutors and judges trying such cases, calling the draft law "ripe for misinterpretation and possible abuse." (Note: Among the evidence of genocide ideology cited in the draft law are "wicked speech, defaming, mocking, speaking ill of someone, causing confusion, and stirring up ill feelings." End note.) Des Forges said revision to legislation was "not a transparent process" in Rwanda, and that laws drafted by more experienced jurists were often amended by less

experienced legislators, compounding legislative difficulties. She reiterated HRW's goal of supporting equal access to justice for all, emphasizing the need to provide protections to people accused of genocide in the gacaca courts, to witnesses, and to victims of revenge killings by the Rwandan Patriotic Army in the days following the genocide, as well as to survivors. Human Rights Watch also circulated at the conference a study it had done, which was even more critical of the Rwandan judicial process. This study, which relied heavily on anecdotal information and comments from unnamed sources, was seen by the GOR as another example of unbalanced criticism by Human Rights Watch which regularly cites problems but does not acknowledge GOR efforts to correct these problems.

17. (SBU) Des Forges' remarks and the circulation of the HRW report drew harsh criticism from GOR officials in attendance, the most vocal of whom was Minister of Justice Karugarama, who said HRW presented a false image of Rwanda to the world, one that was "bad, bad, bad" and which consisted of "wild, unresearched condemnation." He said HRW conclusions were based on poor sources and were at times "professionally dishonest." He cautioned HRW to avoid "being perceived as negationist, and a spokesman for genocide ideology" and said that, by not helping the GOR, HRW was "making itself an opponent." He concluded his remarks by asking HRW to "give us a break. Give us a chance to build on our core values, develop our system, heal our wounds." In response, Des Forges highlighted the long-term interest and presence of HRW in Rwanda and her own extensive experience. She argued that HRW was not a "public relations arm of the GOR," and said HRW's primary obligation was not to promote a positive image of Rwanda, but "to list human rights abuses accurately and honestly; not to be sympathetic to governments, but to people."

18. (C) Comment: While the conference rightly highlighted Rwandan achievements in the judicial sector, and GOR and other participants gave clear-eyed accounts of the many

remaining challenges to progress, the harsh reaction to Allison Des Forges' remarks also showed the continued unwillingness of some GOR officials to hear polite but pointed criticisms of key GOR objectives from sources it does not respect. HRW, in particular, has become a lightning rod for GOR resentment of what it sees as unfair and unbalanced criticism of the current situation in Rwanda. Although the GOR permits HRW to maintain an office in Kigali, the GOR does not see it as a partner and has not sought its help in implementing reforms. The GOR does need assistance in many areas, for example, in legislative drafting. The last genocide ideology law, for one, has been on a swift legislative trajectory compared to most pending legislation, it has been not publicly debated, and consultation on its provisions within Rwandan society, or with the international community, has been minimal at best. End comment.

ARIETTI